

REMARKS

Applicant's attorney wishes to thank the Examiner for the careful consideration given this case. Claims 1, 6, 11, 16, 23-25, 28-31, 40, 48, 53, and 61 have been amended. Claims 95-118 are newly-introduced and provide an additional recitation of the present invention for consideration by the Examiner. It is respectfully submitted that no new matter has been introduced through these amendments. Claims 1-118 are pending in the present case.

Applicants note the Examiner's summary of the telephonic interview that occurred on August 12, 2003. Applicants note that the Examiner stated that she did not address the Preliminary Amendment. However, after matching the Preliminary Amendment with the file and confirming that the Preliminary Amendment was timely filed, the Examiner stated that she would issue a new Office Action. Applicants acknowledge that the Examiner has sent out a new Office Action (dated August 19, 2003) which addresses the claims presented in the Preliminary Amendment that was timely filed July 15, 2002.

This response addresses those issues raised in the Office Action dated August 19, 2003. It is believed that the present amendments and following remarks render all pending claims allowable. Reconsideration of the claims as presently amended is respectfully requested.

The Examiner states that she has received copies of references that do not comply with 37 CFR 1.98(a) in that they are illegible. While Applicants' submit that the original copies that were provided were legible, new copies of the references that the Examiner has struck-through are being submitted herewith. Consideration thereof is respectfully requested.

The Examiner objects to the use of the trademarks "APACHE" and "SHOCKWAVE" in the specification. Applicants have amended application to show proper trademark usage.

The Examiner rejects Claims 1-7, 9-17, 19-22, 24-27, 29-40, and 53 under 35 U.S.C. § 102(b) as being anticipated by Cook et al. (U.S. 5,727,950; the '950 patent). A claim is anticipated by a prior art reference if, and only if, each and every claim limitation may be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131.01. Accordingly, Cook et al. must contain each and every claim element of the rejected claims.

Regarding Claims 1-7, 9-17, 19-22, 24-27, 29-30, and 40, Applicants note that the rejected independent Claims 1, 11, 21, 26, and 40 include or were amended to include the element of generating a representation of an expected response. The dependent claims thereof (*i.e.* Claims 2-6, 9-10, 12-17, 19-20, 22, 24-25, 27, 29-30) contain the same element as well, The Examiner asserts that Cook et al. teach the generation of a representation of expected responses to the simulation content. The Examiner cites to Col. 13, lines 46-64 and Col. 14, lines 8-16 and to the example of an expected time to complete the response to support this proposition.

It is respectfully submitted that an expected time to complete a response is not at all a representation of an expected response – either in general or particularly within the context of this application. A representation of an expected time to complete a response is not equivalent to a representation of an expected response. A representation of an expected time to complete a response contains information about only one aspect of the participant's behavior, namely the amount of time that the participant may take to complete the task. In contrast, a

representation of an expected response includes content information about the choice that a participant may make, *i.e.* the specific action that the participant may perform. In contrast to the '950 patent, the present invention, as described and currently claimed, generates representations of expected responses to the simulation content. This information clearly depends explicitly on the simulation content. Indeed, an expected time to complete a response is an independent metric from the expected response itself. ✓

The element of generating a representation of an expected response is found in the present form of rejected Claims Claims 1-7, 9-17, 19-22, 24-27, 29-30, and 40 and is clearly absent from Cook et al. Thus, the rejection of Claims Claims 1-7, 9-17, 19-22, 24-27, 29-30, and 40 under §102(b) is inappropriate and should be withdrawn.

Further regarding Claims 6 and 16, the Examiner asserts that Cook et al. teaches alerting an instructor of a deviation from an expected response, citing to Col. 14, lines 8-16 of Cook et al. This passage describes how the invention of the '950 patent keeps track of the behavior of a student, *i.e.* on which type of problems the student is making errors and how these responses are sent to agent software. This is clearly distinct from generating a representation of an expected response and alerting an instructor of the participants' responses *when the participants' responses deviate from the representation of the expected responses*, as described and claimed in the claims that are the subject of this rejection. Indeed, the '950 patent does not teach the generation of a representation of an expected response, let alone determining when these responses deviate from that representation. Thus, all elements of presently-rejected Claims 6 and 16 are not found in Cook et al. ✓

Accordingly, the present rejection of Claims 6 and 16 under §102(b) is inappropriate and should be withdrawn.

Claims 7, 17, 21, 24-25, 26-27, and 29-30 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Cook et al. Claim 7, 17, 21, 24-25, 26-27, and 29-30 recite the element of altering the simulation content in response to the input. The Examiner states that Cook et al. teach the alteration of simulation content at Col. 12, lines 38-51. However, in reading this passage of Cook et.al. it is clear that it is only the order of the presentation of the content that is altered, rather than the content itself. The invention, as claimed in Claims 7, 17, 21, 24-25, 26-27, and 29-30, clearly calls for the altering of content in response to the input. It is respectfully submitted that Cook et al. does not satisfy this limitation and the rejection under § 102(b) is inappropriate and should be withdrawn. ✓ Col. 31

The Examiner has rejected Claims 31-40 and 53 under 35 U.S.C. §102(b) as being anticipated by Cook et al. The Examiner asserts that Cook et al. teach providing feedback to one or more participants based upon pedagogical goals (*i.e.* objectives) of the simulation. Applicants have amended Claim 40 to recite providing feedback to one or more participants based upon dramatic goals. Claim 31, in its present form, contains the element of presenting the simulation content in response to the input to achieve dramatic goals of the simulation. Accordingly, dependent Claims 32-39 also contain this element. Claim 53 presently contains the element of a means for providing feedback to the one or more participants based upon dramatic goals of the simulation. It is respectfully submitted that the objectives of the simulation as taught by Cook et al. are not the same as dramatic goals of a simulation as claimed in Claims 31-40 and 53. The dramatic goals of the present invention are interpreted in light of the storyline and within the context of the simulated environment in clear contrast to the check-list like objectives of Cook et al. Thus, the '950 patent does not contain the element of providing feedback to ✓ Lotecka

one or more participants based upon dramatic goals. Accordingly, the rejection of Claims 31-40 and 53 under 35 U.S.C. § 102(b) is inappropriate and should be withdrawn.

Further, regarding Claims 9, 19, 24, 29, and 37, the Examiner asserts that Cook et al. disclose delivering immersive audio to the one or more participants (e.g. via movies, audible, display items, voice, etc.). It is respectfully submitted that Cook et al. do not disclose the use of immersive audio, as claimed in the present application. The use of movies, audible, display items, and voice does not inherently include the use of immersive audio. Therefore, Cook et al. is clearly distinguishable over the presently-pending claims of the current application in that it does not contain each and every claim limitation. A claim is anticipated by a prior art reference if, and only if, each and every claim element may be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131.01. It is respectfully submitted that the cited reference does not satisfy this requirement. Accordingly, the present rejection of Claims 9, 19, 24, 29, and 37 under § 102(b) are inappropriate. Reconsideration and withdrawal of these rejections is respectfully requested. immersive, ✓

The Examiner rejects Claims 8, 18, 23, and 28 under 35 U.S.C. § 103(a) as being obvious over Cook et al. in view of Siegel (U.S. Application Publication No. 2003/0014400; the '400 publication). Applicants again submit that Cook et al. does not teach the claimed elements of generating a representation of an expected response or altering simulation content based on the input as found in the presently-rejected claims. Applicants further submit that the '400 publication does not teach these elements and thus does not cure the deficiencies of Cook et al. As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be taught or suggested in the cited ✓

references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement for Climas 8, 18, 23, and 28 in their present form. Accordingly, on those grounds alone the present obviousness rejection is inappropriate and should be withdrawn.

Continuing *in arguendo*, the Examiner states that Siegel discloses scenarios that teach 'soft skills' such as judgement, strategic thinking, and problem solving and that military scenarios fall under this category. However, Applicants have not claimed "scenarios that teach soft skills such as judgement, strategic thinking, and problem solving." Instead, in Claims 8, 13, 23, and 28, Applicants have claimed military scenarios. The proper analysis questions whether each and every claim limitation is found in the cited references. Cook et al. and Siegel either singly or in combination do not teach or fairly suggest the element of military scenarios. On this count, the present obviousness rejection clearly fails and must be withdrawn. Reconsideration thereof is respectfully requested.

The Examiner rejects Claims 41, 54, 66-67, 74-75, and 83-84 under 35 U.S.C. § 103(a) as being obvious over Cook et al. in view of Hale (U.S. Application Publication No. 2001/0049087).

Applicants submit that the use of Hale in rejecting Claims 41, 54, 66-67, 74-75, and 83-84 is inappropriate. The Examiner is using impermissible hindsight to combine Hale and Cook et al. in an attempt to reject the present claims. Indeed, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so either implicitly or explicitly in the references themselves or in the knowledge generally available to one of skill in the art. MPEP § 2143.01 It is respectfully submitted that the Examiner has not

established such a teaching, suggestion, or motivation. Accordingly, the obviousness rejections presented herein are untenable. Reconsideration and withdrawal of the present rejection is respectfully requested.

Further, the Applicants again submit that Cook et al. does not teach or fairly suggest generating a representation of an expected response (as found in rejected Claims 66-67, 74-75). As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that the cited references do not satisfy this requirement for Claims 66-67 and 74-75 in their present form. Accordingly, on those grounds alone the present obviousness rejection is inappropriate and should be withdrawn.

In presenting the rejection of Claims 66-67, 74-75, and 83-84 is inappropriate, the Examiner states on page 10 of the present Office Action that Hale teaches altering the simulation content based on the dramatic goals (e.g. to teach earth science). Even allowing for the fact that the Examiner may have had a far more engaging teacher for earth science than Applicants' Agent, teaching earth science is by no means an example of a dramatic goal within the context of the present invention. This strained interpretation of Hale is a clear indication of its inapplicability. The specification of the present application describes dramatic goals in the following way in paragraph 56:

Actions and decisions that are made by the participants cause changes in the simulated environment, ultimately causing the system to adapt the storyline in ways to achieve certain pedagogical or dramatic goals.

It is clear that the dramatic goals of the present invention are interpreted in light of the storyline and within the context of the simulated environment. This is further reinforced through evaluating the claims themselves.

Independent Claim 66 recites generating a representation of expected responses to simulation content, monitoring the participants' responses to the simulation content, comparing the participants' responses with the representation of expected responses to the simulation content, and altering the simulation content in response to the participants' response based upon dramatic goals of the simulation. Parallel apparatus independent Claim 74 contains similar elements. It is abundantly clear that neither Hale nor Cook et al., alone or in combination, contains all of these elements, such as generating a representation of expected responses or comparing the participants responses with the representation of expected responses. Thus, the present obviousness rejection is inappropriate. With regards to independent Claim 83, neither Hale nor Cook et al., alone or in combination, teach the use of an artificial intelligence engine for analyzing input into one or more workstations and altering the simulation content in response to based upon dramatic goals of the simulation. In each of these cases, the dependent claims (*i.e.* Claims 67, 75, and 84) also contain the respective element. Accordingly, the obviousness rejection of Claims 66-67, 74-75, and 83-84 is inappropriate. Reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner rejects Claims 42-49, 51-52, 55-62, 64-65, 68-70, 72-73, 76-78, 80-82, and 85-92 under 35 U.S.C. § 103(a) as being obvious over Cook et al. in view of Hale further in view of Vronay (U.S. Application Publication No. 2003/0048289; the '289 Publication). It is again submitted that Cook et al. does not teach generation of a representation of an expected storyline (regarding rejected Claims 48, 61, 68-70, 72-73, 76-78, and 80-82) or altering the simulation content based on the responses (regarding rejected Claims 49 and 68-70, 72-73, 76-78, 80-82, and 85-92). As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be taught or

suggested in the cited references. MPEP § 2143.01. Neither Hale nor Vronay cure these deficiencies of Cook et al. It is submitted that the cited references do not satisfy this requirement for Claims 48-49, 61, 68-70, 72-73, 76-78, 80-82, and 85-92 in their present form. Accordingly, on those grounds alone the present obviousness rejection is inappropriate and should be withdrawn.

Applicants further submit that the use of Cook et al., Hale, and Vronay in rejecting Claims 42-49, 51-52, 55-62, 64-65, 68-70, 72-73, 76-78, 80-82, and 85-92 is inappropriate. The Examiner is using impermissible hindsight to combine Cook et al., Hale, and Vronay in an attempt to reject the present claims. Indeed, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so either implicitly or explicitly in the references themselves or in the knowledge generally available to one of skill in the art. MPEP § 2143.01 It is respectfully submitted that the Examiner has not established such a teaching, suggestion, or motivation. Accordingly, the obviousness rejections presented herein are untenable. Reconsideration and withdrawal of the present rejection is respectfully requested.

Applicants further submit that the Examiner's use of Vronay is inappropriate because Vronay is non-analogous art. To rely upon a reference under 35 U.S.C. § 103, the reference must be analogous prior art. MPEP § 2141.01(a). Vronay relates to displaying images (*e.g.* still photographs) with another person by providing verbal explanations of the display images. Vronay does not discuss simulations methods or apparatuses at all, let alone render the Applicants' claimed invention obvious. The problems addressed in displaying images such as still photographs are quite different from Applicant's claimed invention. It is respectfully submitted that Sinwald et al. is neither in the present application's

field of endeavor, nor reasonably pertinent to the particular problem with which the present application is concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Therefore, its use as a basis for an obviousness rejection is entirely inappropriate.

The Examiner rejects Claims 50, 63, 71, and 79 under 35 U.S.C. § 103(a) as being obvious over Cook et al., in view of Hale, further in view of Vronay, further in view of Siegel. The Examiner states that Siegel discloses scenarios that teach 'soft skills' such as judgement, strategic thinking, and problem solving and that military scenarios fall under this category. However, Applicants have not claimed "scenarios that teach soft skills such as judgement, strategic thinking, and problem solving." Instead, in Claims 50, 63, 71, and 79, Applicants have claimed military scenarios. The proper analysis questions whether each and every claim limitation is found in the cited references. Cook et al., Siegel, Bronay, and Hale either singly or in combination do not teach or fairly suggest the element of military scenarios. On this count alone, the present obviousness rejection clearly fails and must be withdrawn. Reconsideration thereof is respectfully requested.

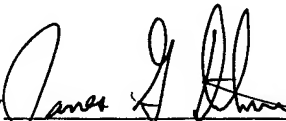
Further, by proposing this obviousness rejection, the Examiner is combining four references. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so either implicitly or explicitly in the references themselves or in the knowledge generally available to one of skill in the art. MPEP § 2143.01 It is respectfully submitted that the Examiner has not established such a teaching, suggestion, or motivation. The Examiner is clearly using impermissible hindsight to combine references in an attempt to arrive at the present invention. Accordingly, the obviousness rejections presented herein are untenable. In addition, the use of Vronay in a §103

obviousness rejection is entirely inappropriate because it is non-analogous art.
Reconsideration and withdrawal of the present rejection is respectfully requested.

In view of the amendments to the claims and the remarks presented herein, it is respectfully submitted that the present application is in condition for final allowance and notice to such effect is requested. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner to contact him at the telephone number provided below.

Respectfully submitted,

Dated: November 19, 2003

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